

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

STEVEN HILLARD,

Plaintiff,

v.

DR. SANCHEZ et al.,

Defendants.

Case No. 3:16-cv-00682-MMD-VPC

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. On October 25, 2017, the Court issued an order dismissing the complaint with leave to amend and directed Plaintiff to file an amended complaint within thirty (30) days. (ECF No. 5 at 6). The thirty-day period has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v.*

1 *U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply  
2 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal  
3 for lack of prosecution and failure to comply with local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to  
5 obey a court order, or failure to comply with local rules, the court must consider several  
6 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need  
7 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
8 favoring disposition of cases on their merits; and (5) the availability of less drastic  
9 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*,  
10 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 In the instant case, the Court finds that the first two factors, the public's interest in  
12 expeditiously resolving this litigation and the Court's interest in managing the docket,  
13 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
14 in favor of dismissal, since a presumption of injury arises from the occurrence of  
15 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.  
16 See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public  
17 policy favoring disposition of cases on their merits – is greatly outweighed by the factors  
18 in favor of dismissal discussed herein. Finally, a court's warning to a party that his  
19 failure to obey the court's order will result in dismissal satisfies the "consideration of  
20 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;  
21 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file an amended  
22 complaint within thirty days expressly stated: "It is further ordered that, if Plaintiff fails to  
23 file an amended complaint curing the deficiencies outlined in this order, this action will  
24 be dismissed with prejudice." (ECF No. 5 at 7). Thus, Plaintiff had adequate warning  
25 that dismissal would result from his noncompliance with the Court's order to file an  
26 amended complaint within thirty days.

27 ///

28 ///

1 It is therefore ordered that this action is dismissed with prejudice based on  
2 Plaintiff's failure to file an amended complaint in compliance with this Court's October  
3 25, 2017, order.

4 It is further ordered that the motion to proceed *in forma pauperis* (ECF No. 1) is  
5 denied as moot.

6 It is further ordered that the Clerk of Court enter judgment accordingly.

7 DATED THIS 4<sup>th</sup> day of December 2017.

8  
9 

10 MIRANDA M. DU  
11 UNITED STATES DISTRICT JUDGE  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28